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OFFICE OF PETITIONS

In re Application of
Angel A. Gargiulo
Application No. 09/935,491
Filed: August 23, 2001
Attorney Docket No. W-3908

ON PETITION

This is in response to the petition under 37 CFR 1.137(b) filed August 11, 2005.

The petition under 37 CFR 1.137(b) is granted.

The above-identified application became abandoned for failure to reply to the Notice to File Missing Parts of Non-provisional Application mailed September 25, 2001, which set a period for reply of two (2) months from its mailing date. Extensions of time for reply pursuant to 37 CFR 1.136(a) was available. A proper response was not received within the allowed period, and the application became abandoned on November 26, 2001. A Notice of Abandonment was mailed on December 5, 2003.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply form the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office.

The declaration filed August 11, 2005, is noted and made of record.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions